

Senate Bill No. 1171

Passed the Senate August 4, 2014

Secretary of the Senate

Passed the Assembly July 3, 2014

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 2079.13 of, and to amend the heading of Article 2 (commencing with Section 2079) of Chapter 3 of Title 6 of Part 4 of Division 3 of, the Civil Code, relating to real property transactions.

LEGISLATIVE COUNSEL'S DIGEST

SB 1171, Hueso. Real property transactions: agents: obligations.

Existing law requires listing and selling agents, as defined, to provide the seller and buyer in a residential real property transaction, including a leasehold interest, with a disclosure form, as prescribed, containing general information on real estate agency relationships. Existing law also requires the listing or selling agent to disclose to the buyer and seller whether he or she is acting as the buyer's agent exclusively, the seller's agent exclusively, or as a dual agent representing both the buyer and the seller.

This bill would extend these disclosure requirements to include transactions involving commercial real property, as defined, including a leasehold interest.

The people of the State of California do enact as follows:

SECTION 1. The heading of Article 2 (commencing with Section 2079) of Chapter 3 of Title 6 of Part 4 of Division 3 of the Civil Code is amended to read:

Article 2. Duty to Prospective Purchaser of Real Property

SEC. 2. Section 2079.13 of the Civil Code is amended to read:

2079.13. As used in Sections 2079.14 to 2079.24, inclusive, the following terms have the following meanings:

(a) "Agent" means a person acting under provisions of Title 9 (commencing with Section 2295) in a real property transaction, and includes a person who is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and under whose license a listing is executed or an offer to purchase is obtained.

(b) “Associate licensee” means a person who is licensed as a real estate broker or salesperson under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code and who is either licensed under a broker or has entered into a written contract with a broker to act as the broker’s agent in connection with acts requiring a real estate license and to function under the broker’s supervision in the capacity of an associate licensee.

The agent in the real property transaction bears responsibility for his or her associate licensees who perform as agents of the agent. When an associate licensee owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the associate licensee functions.

(c) “Buyer” means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent in more than a casual, transitory, or preliminary manner, with the object of entering into a real property transaction. “Buyer” includes vendee or lessee.

(d) “Commercial real property” means all real property in the state, except single-family residential real property, dwelling units made subject to Chapter 2 (commencing with Section 1940) of Title 5, mobilehomes, as defined in Section 798.3, or recreational vehicles, as defined in Section 799.29.

(e) “Dual agent” means an agent acting, either directly or through an associate licensee, as agent for both the seller and the buyer in a real property transaction.

(f) “Listing agreement” means a contract between an owner of real property and an agent, by which the agent has been authorized to sell the real property or to find or obtain a buyer.

(g) “Listing agent” means a person who has obtained a listing of real property to act as an agent for compensation.

(h) “Listing price” is the amount expressed in dollars specified in the listing for which the seller is willing to sell the real property through the listing agent.

(i) “Offering price” is the amount expressed in dollars specified in an offer to purchase for which the buyer is willing to buy the real property.

(j) “Offer to purchase” means a written contract executed by a buyer acting through a selling agent that becomes the contract for the sale of the real property upon acceptance by the seller.

(k) “Real property” means any estate specified by subdivision (1) or (2) of Section 761 in property that constitutes or is improved with one to four dwelling units, any commercial real property, any leasehold in these types of property exceeding one year’s duration, and mobilehomes, when offered for sale or sold through an agent pursuant to the authority contained in Section 10131.6 of the Business and Professions Code.

(l) “Real property transaction” means a transaction for the sale of real property in which an agent is employed by one or more of the principals to act in that transaction, and includes a listing or an offer to purchase.

(m) “Sell,” “sale,” or “sold” refers to a transaction for the transfer of real property from the seller to the buyer, and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of Section 2985, and transactions for the creation of a leasehold exceeding one year’s duration.

(n) “Seller” means the transferor in a real property transaction, and includes an owner who lists real property with an agent, whether or not a transfer results, or who receives an offer to purchase real property of which he or she is the owner from an agent on behalf of another. “Seller” includes both a vendor and a lessor.

(o) “Selling agent” means a listing agent who acts alone, or an agent who acts in cooperation with a listing agent, and who sells or finds and obtains a buyer for the real property, or an agent who locates property for a buyer or who finds a buyer for a property for which no listing exists and presents an offer to purchase to the seller.

(p) “Subagent” means a person to whom an agent delegates agency powers as provided in Article 5 (commencing with Section 2349) of Chapter 1 of Title 9. However, “subagent” does not include an associate licensee who is acting under the supervision of an agent in a real property transaction.

Approved _____, 2014

Governor